

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 237 – HB 457

April 15, 2013

**SUMMARY OF ORIGINAL BILL:** Authorizes courts upon request of eligible petitioner, as defined for purposes of expunction, to prescribe community service in lieu of the fee for having records expunged under Tenn. Code Ann. § 40-32-101. Such community service shall not exceed 20 hours.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$7,600/TBI  
\$19,700/District Attorneys Expunction Fund  
\$2,200/Public Defenders Expunction Fund  
\$21,900/General Fund

Increase State Expenditures – Not Significant

Decrease Local Revenue – \$1,500/Court Clerks  
Increase Local Expenditures – Not Significant

**SUMMARY OF AMENDMENTS (005853, 007021):** Deletes all language after the enacting clause.

Permits a petitioner to enter into a payment plan with the court clerk to pay the \$350 expunction fee in installments. An order of expunction shall not be granted until the full \$350 fee is paid. The \$350 expunction fee, if paid through the payment plan, is distributed differently than under Tenn. Code Ann. § 40-32-101(g)(10).

If the \$350 fee is paid via payment plan, the fee is allocated differently than if paid in one lump sum under Tenn. Code Ann. § 40-32-101(g)(10). Under the bill as amended, the court clerk shall receive \$25.00 rather than \$10.00; the Tennessee Bureau of Investigation (TBI) shall receive \$80.00 rather than \$50.00; the District Attorneys (DAs) shall receive \$220 rather than \$130.50; and the Public Defenders (PDs) shall receive \$25.00 rather than \$14.50. The General Fund does not receive any of the expunction fee if paid through a payment plan.

Requires the Department of Finance and Administration to review (1) the number of expunction petitions filed pursuant to Tenn. Code Ann. § 40-32-101, (2) the cost of processing each petition, and (3) the amount of money paid in expunction fees to determine (a) if the amount allotted to the State is adequate to implement Tenn. Code Ann. § 40-32-101, and (b) if some portion of such funds could be used for other criminal justice programs such as the criminal injury compensation

fund or drug court funding. The department shall report to the General Assembly in January 2014.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

### **Increase State Revenue – \$1,600/TBI**

**\$4,400/District Attorneys Expunction Fund**

**\$500/Public Defenders Expunction Fund**

### **Increase Local Revenue – \$500/Court Clerks**

Assumptions for the bill as amended:

- The bill would result in individuals who are “eligible petitioners” to have the records expunge that could not do so previously because they could not afford the \$350 fee.
- The additional revenues are allocated differently than the normal expunction fee.
- Under Tenn. Code Ann. § 40-32-101(g)(10), the \$350.00 fee one pays for having records expunged is distributed as follows:
  - \$10.00 to the court clerk collecting the fee;
  - \$50.00 to the TBI;
  - The remainder (\$290.00) is distributed:
    - 5% (\$14.50) to the PDs expunction fund;
    - 40% (\$116.00) to the DAs expunction fund for fiscal year 2012-2013 and 45% (\$130.50) beginning fiscal year 2013-2014;
    - 55% (\$159.50) to the state general fund for fiscal year 2012-2013 and 50% (\$145.00) beginning fiscal year 2013-2014.
- The bill as amended would distribute the \$350 fee as follows:
  - \$25.00 to the court clerk;
  - \$80.00 to the TBI;
  - \$25.00 to the PDs expunction fund; and
  - \$220.00 to the DAs expunction fund.
- It is assumed that the bill would result in 20 additional petitioners each year having their records expunged.
- The bill would result in increased state revenue of \$6,500 (\$325 x 20) and increased local revenue of \$500 (\$25 x 20).
- The TBI would receive \$1,600 (\$80 x 20); the DAs would receive \$4,400 (\$220 x 20); and the PDs would receive \$500 (\$25 x 20).
- It is assumed that the Department of Finance and Administration can perform the review of expunction fees within existing resources.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/trm